

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Indiana

LIENS AND ADJUSTMENTS OR RECOVERIES

1. The State uses the following process for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home:
2. The following criteria are used for establishing that a permanently institutionalized individual's son or daughter provided care as specified under regulations at 42 CFR §433.36(f):
3. The State defines the terms below as follows:
  - o estate  
all real and personal property and other assets included within the recipient's estate as defined for purposes of state probate law
  - o individual's home  
not defined
  - o equity interest in the home  
not defined
  - o residing in the home for at least one or two years on a continuous basis, and  
not defined
  - o lawfully residing.  
not defined

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4. THE STATE DEFINES UNDUE HARDSHIP AS FOLLOWS:

- (1) causing an heir to become eligible for public assistance
- (2) causing an heir who is currently eligible for public assistance to remain dependent on that public assistance
- (3) the complete loss of sole income-producing asset of the heir when the heir's income does not exceed 100% of the federal poverty level
- (4) other compelling circumstances as determined on a case-by-case basis by the State

5. THE FOLLOWING STANDARDS AND PROCEDURES ARE USED BY THE STATE FOR WAIVING ESTATE RECOVERIES WHEN RECOVERY WOULD CAUSE AN UNDUE HARDSHIP, AND WHEN RECOVERY IS NOT COST-EFFECTIVE:

Applications for undue hardship waivers shall be filed with the Medicaid agency within 90 calendar days of the date that the executor or personal representative of the deceased's estate receives notification of the State's claim. The Medicaid agency shall review and rule on an application for waiver of the State's claim within 45 calendar days of the receipt of a properly completed waiver application. The agency may not grant an undue hardship waiver if the granting of such waiver will result in the payment of claims to other creditors with a lower priority standing in accordance with IC 29-1-14-9.

6. THE STATE DEFINES COST-EFFECTIVE AS FOLLOWS (INCLUDE METHODOLOGY/THRESHOLDS USED TO DETERMINE COST-EFFECTIVENESS):

Recovery is not cost-effective when OMPP determines that attorneys' fees and other expenses of collection equal or exceed the amount that OMPP expects to collect. If the agency determines that it is most cost-effective to compromise the State's claim, the compromise must be approved by the Attorney General and the Governor.

7. THE STATE USES THE FOLLOWING COLLECTION PROCEDURES (INCLUDE SPECIFIC ELEMENTS CONTAINED IN THE ADVANCE NOTICE REQUIREMENT, THE METHOD FOR APPLYING FOR A WAIVER, HEARING AND APPEALS PROCEDURES, AND TIME FRAMES INVOLVED):

When the agency receives notice of the death of a recipient, former recipient, or a deceased recipient's spouse, the agency will file a claim against the estate in probate court. If the estate is valued at under \$15,000 and no probate estate is opened, the agency will file an affidavit in support of its claim with any entity that holds funds or property belonging to the deceased. The agency shall notify the executor or personal representative of the deceased recipient's estate of the State's claim and the affected heir's right to apply for an undue hardship waiver. If the agency reviews such an application and determines that an undue hardship does not exist, the agency shall notify the applicant in writing and inform the applicant of his right to request an administrative hearing within 30 days of receipt of the agency's decision that an undue hardship waiver has been denied.

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